



"The City With a Heart"

Mary Lou Johnson, *Chair*
Kevin Chase, *Vice-Chair*
Rick Biasotti
Perry Petersen
Joe Sammut
Sujendra Mishra
Bob Marshall, Jr

**MINUTES
PLANNING COMMISSION MEETING**

April 21, 2009

7:00 p.m.

Meeting location: Senior Center, 1555 Crystal Springs Road, San Bruno

CALL TO ORDER at 7:01 pm.

ROLL CALL

	<u>Present</u>	<u>Absent</u>
Chair Johnson	X	
Vice Chair Chase		X
Commissioner Biasotti	X	
Chair Marshall	X	
Commissioner Mishra	X	
Commissioner Petersen	X	
Commissioner Sammut	X	

STAFF PRESENT:

Planning Division:	Community Development Director: Aaron Akin
	Acting Planning Manager: Lisa Costa Sanders
	Associate Planner: Laura Russell
	Assistant Planner: Matt Neuebaumer
	City Attorney: Pamela Thompson
	Recording Secretary: Shauna Williams

Pledge of Allegiance: Commissioner Petersen

1. Approval of Minutes – March 17, 2009

Motion to Approve Minutes of March 17, 2009 Planning Commission meeting

Biasotti/ Mishra

VOTE: 6-0
AYES: All Commissioners present.
NOES: None
ABSTAIN: None

2. Communication

E-Packets are available on line at www.sanbruno.ca.gov

3. Public Comment - None

4. Announcement of Conflict of Interest - None at this time.

5. Public Hearings

A. 917 Masson Avenue

Request for a Use Permit to legalize un-permitted construction that would result in an overall FAR above the .55 guideline (.80), exceeds the 44% lot coverage requirement (57%), and exceeds 2,800 square feet of living space (3,450 s.f.) without providing a third covered parking space per Section 12.200.030.B.2, 12.200.030.B.3., and 12.200.080.A.3. of the San Bruno Zoning Ordinance. Ahmed Khan (Applicant & Owner) UP-08-026.

Staff recommends that the Planning Commission **Continue** Use Permit 08-026 to the May 19, 2009 Planning Commission public hearing.

Chair Johnson asked Commission if there were any questions for staff.

None at this time.

Public Comment Open.

None at this time.

Public Comment Closed.

Motion to Continue Use Permit UP-08-026 to the May 19, 2009 meeting.

Commissioner Marshall/ Petersen

VOTE: 6-0

AYES: All Commissioners present

NOES: None

ABSTAIN: None

B. 1701 Crestwood Drive

Request for a Use Permit to legalize construction which increases the gross floor area by greater than 50% (92% cumulatively), exceeds the floor area ratio of 38.3% (56.9% proposed) and involves a third story addition per Sections 12.200.030.B.1 and 12.200.080.B of the San Bruno Zoning Ordinance. Patrick Moura (Applicant), Mario Morales (Owner) UP-08-015.

Acting Planning Manager Costa Sanders: entered staff report.

Staff recommends that the Planning Commission **approve** Use Permit 08-015 based on Findings of Fact 1-6 and Conditions of Approval (1-20).

Chair Johnson: asked Commission if there were any questions for staff.

Commissioner Mishra: On sheet A.1, it states the usage of the 2001 Building Code. Isn't it supposed to be the 2007 Building Code?

CD Director Akin: That is an error on the plans, which will be corrected when it is submitted to the Building Department. It shall comply with the 2007 CA Building Code.

Commissioner Petersen: Why is staff supportive of a project so large?

Acting Planning Manager Costa Sanders: The addition fits in well with the neighborhood.

Public Comment opened.

Mario Morales; Applicant: I am the property owner, and I am here to answer any questions you may have.

Commissioner Biasotti: Can you please explain the mudslide and repairs that you mentioned at the Architectural Review meeting.

Mario Morales; Applicant: Explained Code Enforcement Case from his point of view.

City Attorney Thompson: There is a different version of that story, and we do not need to go through all the details tonight, because what is before you is the addition to the house. The City has spent a great deal of financial and other resources taking this case to court to seek an order. Construction was done with out the benefit of permits and the retaining wall is a separate issue that is not before you tonight.

Commissioner Petersen: Are you the party whom actually built the house larger than permitted?

Mario Morales; Applicant: Yes Sir, I am. I just wanted to improve the home and make it comfortable for my family. I am grateful that the city staff has recommended approval for the addition.

Commissioner Petersen: Being a contractor, how would it escape you that a permit would be required for a larger structure?

Mario Morales; Applicant: In the past, the former Building Official, Ralph Carrillo didn't require me to pull a permit or to have inspections on the addition.

CD Director Akin: The City disputes that things were done the way Mario Morales is claiming. Where I do agree with Mario, is that he has submitted quality plans at this time, he is making the effort to get the illegal structures in compliance, and that is why staff is recommending approval.

Commissioner Sammut: Do you agree with all of the Conditions of Approval?

Mario Morales; Applicant: Yes.

Patrick Moura; Architect: Mr. Morales has shown good faith in trying to resolve the issues on his property.

Chair Johnson: Thank you for your point of view, however, we are not here to discuss good faith or not good faith, we are here to legalize construction that was not in compliance.

Public Comment closed.

CD Director Akin: We found a typo in condition #6, we would like to strike and remove the "with an excess housing keeping."

Commissioner Petersen: Although the retaining wall is not a part of this permit, I feel it would be appropriate to condition that the wall be resolved before the permit construction goes forward.

CD Director Akin: We are under a court order in terms of how we are processing the permit. We have two concurrent permits, which we are processing per the court order.

Commissioner Petersen: Would it be fair to put in a condition that recognizes this linkage between the two events?

City Attorney Thompson: That could be considered. Until the retaining wall is fixed and made safe, no one is allowed to live in the house. The house is currently red tagged until it is made safe.

CD Director Akin: Due to the court order and the red tag on the building, he will not be able to live in the main home or the addition to the home until the retaining wall is taken care of. The necessary steps are built into the court order and to how to process the permit.

City Attorney Thompson: Just to be clear, the red tag will be removed when the retaining wall is made safe.

Commissioner Petersen: Since there is a permit that is so strongly linked to another permitted structure on a property, wouldn't it be appropriate to have something in the conditions of approval for recognition in the document.

City Attorney Thompson: I believe your point is very well taken. I think the place for that acknowledgement is in the Findings of Fact and would need to be added to describe what the situation is on the property. In terms of the permit, it would be handled as two separate matters; one for the house and one for the retaining wall. The City cannot issue a permit when a structure encroaches onto someone else's property, so Mr. Morales will have to work very hard to get the appropriate permissions relating to the retaining wall.

Chair Johnson: You communicated there was some encroachment onto the neighbor's property. Is that a situation that would come back to the Planning Commission for any kind of decision making?

City Attorney Thompson: No, it is not something that would be brought before you. The city may either authorize the removal of the encroachment or legalization of that part of the wall with the neighboring property owner's consent.

Commissioner Marshall: It is only the wall that is encroaching on the property, correct?

City Attorney Thompson: Yes.

Commissioner Petersen: Are the stairs and the deck that are being removed a part of the encroachment?

CD Director Akin: Correct, those are shown to be removed. The retaining wall is the only portion of the encroachment that is proposed to remain on the plans, everything else will be demolished.

Motion to approve Use Permit 08-015 based on the Findings of Fact (1-6), subject to Conditions of Approval (1-20). With additional Finding of Fact and modification to Condition #6.

Commissioner Marshall/ Biasotti

VOTE: 6-0
AYES: All Commissioners present
NOES: None
ABSTAIN: None

Chair Johnson advised of a 10-day appeal period.

FINDINGS OF FACT

1. The proposed development will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use.
2. The proposed development will not be injurious or detrimental to property and improvement in the neighborhood or to the general welfare of the city given its quality architectural features and its general conformance to a majority of regulations as set forth in the Municipal Code.
3. The proposed development will be consistent with the general plan.
4. The proposed development, as set forth on the plans, and with recommendations by staff, will not unreasonably restrict or interfere with light and air on the property and on other property in the neighborhood, will not hinder or discourage the appropriate development and use of land and buildings in the neighborhood, or impair the value thereof; and is consistent with the design and scale of the neighborhood.
5. That the general appearance of the proposed building, structure, or grounds will be in keeping with the character of the neighborhood, will not be detrimental to the orderly and harmonious development of the city, and will not impair the desirability of investment or occupation in the neighborhood.
6. The proposed expansion complies with applicable off-street parking standards of the City of San Bruno Zoning Ordinance.

CONDITIONS OF APPROVAL

Community Development Department – (650) 616-7042

1. The applicant shall file a declaration of acceptance of the following conditions by submitting a signed copy of the Summary of Hearing to the Community Development Department within 30 days of Planning Commission approval. Until such time as the Summary is filed, Use Permit 08-015 shall not be valid for any purpose. Use Permit 08-015 shall expire one (1) year from the date of Planning Commission approval unless a building permit has been secured prior to the one (1) year date.
2. The signed copy of the Summary of Hearing shall be photocopied and included as a full size page in the Building Division set of drawings.
3. The request for a Use Permit to legalize an addition shall be built according to plans approved by the Planning Commission on April 21, 2009, labeled Exhibit B except as required to be modified by these Conditions of Approval. Any modification to the approved plans shall require prior approval by the Community Development Director.
4. The applicant shall obtain a City of San Bruno building permit before construction can proceed. The operation of any equipment or performance of any outside construction related to this project shall not exceed a noise level of 85 decibels (as measured at 100 feet) during the hours of 7:00 a.m. to 10:00 p.m. or exceed 60 decibels (as measured at 100 feet) from 10:00 p.m. to 7:00 a.m.
5. Prior to Final Inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the City of San Bruno.

6. The residence shall be used only as a single-family residential dwelling unit. No portion of the residence shall be rented out as an additional residential dwelling unit. The rental of a room does not qualify as an additional dwelling unit. Any attempt to construct an illegal dwelling unit will result in Code Enforcement action by the City.
7. The garage shall be used for the storage of motor vehicles and shall not be used as habitable living space as defined in the Uniform Building Code. The residence must have the ability to park two tandem vehicles in the garage area. Failure to conform to this condition is grounds for code enforcement action, which may result in substantial code compliance costs to bring the garage back into conformance.
8. The applicant shall completely demolish the addition to the first floor shown as the "foyer", shall completely demolish the third floor bathroom addition and shall completely demolish the stairs and rear deck.

Department of Public Works - (650) 616-7065

9. Please note that the front property line is located 4.5 feet behind the sidewalk at Crestwood Drive. No fences, retaining walls, or other permanent structure shall be placed or constructed within 5.5 feet from back of sidewalk. S.B.M.C. 8.08.010.
10. Encroachment Permit from Public Works Department is required prior to commencing any work within the City's public right-of-way. S.B.M.C. 8.16.010.
11. Any damaged curb, gutter, sidewalk or driveway in the public right-of-way fronting the property shall be removed and replaced. Remove and replace all sidewalk sections at the frontage of property for all location where there are any raised or offset concrete sections greater than or equal to 3/4 -inch. S.B.M.C. 8.12.010.
12. Planting of one 36-inch box size approved tree or payment to the in-lieu replacement tree fund per most current fee schedule is required. Tree shall be located on Acacia Ave. S.B.M.C. 8.24.060. At the current rate, the impact payment required is \$540. A separate tree-planting permit is required from Parks and Recreation Services for any new street tree.
13. If not present, install a sanitary sewer lateral clean-out at property line per City standards detail SS-01.
14. Paint address number on face of curb near driveway approach. Black lettering on white background.
15. Erosion control plan and storm water pollution prevention plan required. Must show existing storm drain inlets and other storm water collection locations protect by silt screens or silt fence. Work shall conform to the current NPDES requirements. S.B. Municipal Code 12.16.020.
16. Storm water from new and existing roof down spouts and other on-site drainage, shall be collected and drained to an underground storm water system or through an under sidewalk curb drain to the gutter per City standards detail SI-03. Chapter 11, UPC 1101.1.
17. The building permit plans shall include a site plan that shows all property lines, setbacks and easements, and all existing and proposed grading and drainage improvements. All unpaved areas shall be graded to slope at 1% or more. All paved areas shall be graded to slope at 0.5% or more. All grading and drainage work shall conform to the current NPDES requirements. S.B.M.C. 12.161.020

18. Perform water demand calculation based requirements in Chapter 7 of the California Plumbing Code to confirm that the existing water service and meter are sufficient to serve water demand. If existing meter is undersized, a new meter is required. Applicant shall pay water and sewer capacity charges based on the size of the water meter installed along with materials and installation of water meter. S.B.M.C. 10.14.020/110

Fire Department- (650) 616-7096

19. Address numbers must be at least four (4) inches in height, of a contrasting color to the background, and must be illuminated during the hours of darkness.
20. The chimney shall have a spark arrestor.

C. 195 El Camino Real

Request for a Use Permit to allow a dental office in the C-N neighborhood commercial zoning district per Section 12.96.100.C.3 of the San Bruno Zoning Ordinance. Wilson Lim (Owner and Applicant) UP-09-003.

Associate Planner Russell entered staff report.

Staff recommends that the Planning Commission **approve** Use Permit 09-003 based on Findings of Fact (1-3) and Conditions of Approval (1-13).

Vice Chair Johnson: Asked Commission if there were any questions for staff.

Commissioner Mishra: The entry is not ADA accessible. How does the city proceed with that?

CD Director Akin: All ADA requirements and tenant improvements will be addressed during the Building Division review phase of the project.

Associate Planner Russell: Staff has already received preliminary comments regarding the ADA issues on the property and they were given to the applicant.

Public Comment Open.

Wilson Lim, Applicant: I am a dentist by profession, and have had many locations for my office. Many of my clients use public transportation, which is very convenient at this location. We will make the required upgrades to be ADA compatible.

Public Comment Closed.

Motion to approve Use Permit 09-003 based on the Findings of Fact (1-3), subject to Conditions of Approval (1-13).

Commissioner Sammut/ Marshall

VOTE:	6-0
AYES:	All Commissioners Present
NOES:	None
ABSTAIN:	None

Chair Johnson advised of a 10-day appeal period.

FINDINGS OF FACT

1. The proposed use will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use.
2. The proposed use will not be injurious or detrimental to property and improvement in the neighborhood or to the general welfare of the city.
3. The proposed use will be consistent with the general plan.

CONDITIONS OF APPROVAL

Community Development Department – (650) 616-7074

1. The applicant shall file a declaration of acceptance of the following conditions by submitting a signed copy of the Summary of Hearing to the Community Development Department within 30 days of Planning Commission approval. Until such time as the Summary is filed, Use Permit 09-003 shall not be valid for any purpose. Use Permit 09-003 shall expire one (1) year from the date of Planning Commission approval unless the operation commences prior to the one (1) year date.
2. The request for a Use Permit to operate dental office shall be built and operated according to plans approved by the Planning Commission on April 21, 2009, labeled Exhibits B and D except as required to be modified by these Conditions of Approval. Any modification to the approved plans shall require prior approval by the Community Development Director.
3. The signed copy of the conditions of approval shall be photocopied and included as a full size page in the Building Division set of drawings.
4. The applicant shall obtain a City of San Bruno building permit before any construction can proceed. The operation of any equipment or performance of any outside construction related to this project shall not exceed a noise level of 85 decibels (as measured at 100 feet) during the hours of 7:00 a.m. to 10:00 p.m. or exceed 60 decibels (as measured at 100 feet) from 10:00 p.m. to 7:00 a.m.
5. Prior to securing a building permit, the applicant, owner, and general contractor shall meet with Planning and Building staff to ensure compliance with the conditions of approval during the construction process.
6. Prior to operation and final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the City of San Bruno.
7. The applicant and any successor in interest, shall agree to operate the dental office at 195 El Camino Real in the manner as described in the staff report and in the applicant's support statement. Any deviation or change in business activities shall require prior authorization by the Community Development Director and may require full Planning Commission review. Failure to comply with these requirements may result in the City of San Bruno instituting revocation hearings.

8. The applicant or property owner will clean graffiti on the property and/or paint over it within 24 hours of its appearance, using a matching paint color. This condition also gives the City of San Bruno consent to have the graffiti painted out for the applicant. If the graffiti is not removed within 24 hours, the City's graffiti removal vendor will be instructed to remove the graffiti and provide a detailed accounting of the cost to the property owner, who will be responsible for reimbursing the City for the graffiti removal.
9. All on-site exterior lighting shall be operable and directed away from any nearby residential properties.
10. All trash and trash containers shall be stored within appropriate designated trash areas. Sufficient trash and recycling container capacity shall be provided to ensure that all trash, recycling and debris from the building can be stored within the trash container area and with completely closed lids.
11. The property owner or business operator shall conduct regular maintenance of the site to maintain the premises and remove accumulation of litter and debris.
12. New landscaping shall be installed in the existing pots to the satisfaction of the Community Development Director prior to business operation and shall be maintained for the life of the project.
13. All signs shall be approved by the Planning Division under a separate application and must comply with Fire Department Conditions of Approval.

6. Discussion

A. City Staff Discussion: Commissioners Chase, Sammut, and Biasotti volunteered for the May 14, 2009 Architectural Review Committee meeting. Commissioner Petersen for back up.

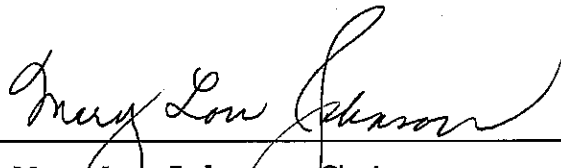
CD Director Aknin: The General Plan was approved at the last City Council Meeting.

7. Adjournment

Meeting was adjourned at 7:45 pm



Aaron Aknin
Secretary to the Planning Commission
City of San Bruno



Mary Lou Johnson, Chair
Planning Commission
City of San Bruno

NEXT MEETING: May 19, 2009